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FALLACIES IN THE TREATMENT OF OFFENDERS

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I had in mind to enunciate that old fallacy, for so it seems it is, that the administration of justice is for the protection of society; that it is not a reformatory measure; that it is not an effort for the benefit of any particular individual, but is for the protection of society, and that our dealing with the accused and the convicted offender should be such that it will result primarily in the protection of society in general, and not primarily benefit any offender in particular. Now that may be an extreme fallacy in the view of the wisdom of fifty years hence, but still that is the idea which had somehow lodged in my mind after the observation and consideration of twenty-five years of looking at things that are abnormal and anti-social in the world. If I had not been driven away from that point, I would have held next that the great obligation resting upon the courts in the administration of justice, that is, dealing with the offender both before and after conviction, is to reduce crime. Optimism may say that the reason crime seems to be increasing, is because we have better statistics, but somehow or other the people, including some who read statistics, have a notion that crime is increasing; that there is a great deal of crime, but that may be another fallacy. Now if our present methods of dealing with crime have been a failure and it continues to grow apace, and society is not protected from the criminal, then the courts of law and the system of jurisprudence under which they act, are not such as are required in order to fulfill their proper function.

Another equally fallacious notion had lodged in my brain during these few years of observation, and that is a fearful looking forward to a judgment to come had something to do with men's conduct in the world. Indeed, I believe I have heard talk of this kind in churches of all kinds. It has been something like an appeal to the people to look out, or something would happen if they did not behave themselves. This notion has been sustained by a little book I have at home which may be known to some of you. Now, being of that

common mind that takes up with the folklore and superstitions of the ages, I had gotten it into my head that the effect of an act might deter a man from committing it; and therefore I should have said that anything in the administration of justice, either through the lack of apprehension of or in dealing afterwards with those who have committed crime, leading to the greater possibility of evasion of the punishment of crime by making the result of doing the act uncertain, weakens the deterrent effect of punishment upon the community. I am perfectly sure that I have known boys in my youth, who would have taken apples from an orchard across the street, if there had not been a dog in the orchard. I am very sure of it, because they lived on the same street that I did. I am sure that young men, because of the possible effect of certain acts upon their bodies or reputations, never committed those acts. There were dogs in that orchard, too. It may be true that those who are influenced by such motives are only a weak kind of humanity who are not governed by the pure moral law. We ought to do a thing because it is right, perhaps, but still there are many who are thus weak, and law-breakers are hardly the morally strong. I was going to argue that anything which weakened the deterrent effect upon the community was to be avoided. I can conceive that you might save a criminal, and, by the way, it is done, do harm to hundreds by losing and making uncertain the results which should follow criminal acts. If, however, punishment of crime has a deterrent effect upon men, and that idea is not an antiquated notion, then whatever laxness there is in the administration of law, whatever makes for easy evasion of the penalty of crime, also makes for crime in the community, and thus does not help society, whether it saves the individual or not.

Those of us who deal with social questions are thinking too much of the individual. There is the great social being which is just as full of life and is just as much of an entity as the single individual, and we lose sight sometimes of the fact that it is the law's business so to deal with the offender that that great social body shall not suffer because of eagerness to protect the single individual. I know it is also an old saying that "Better a hundred guilty persons escape than a single innocent one suffer." That may possibly be true, but it is not salutary teaching for society. How many hundred innocents suffer in every good cause, in every good work, in fighting fire, in protecting you in bed at night—how many innocents suffer

in order that the community at large may be saved. I tell you those hundred guilty ones that escape are a terrible incubus on society. Now if we can impress upon the community the fact that the administration of the law should be something like natural law, if we could only make it self-executing, if we could only bring it about that a man would know that if he took that which did not belong to him, if he violated any right of his neighbor or of the state, the penalty would be just as sure as would be the burn when he put his hand into the fire, I do not believe he would violate the law often. If the first time an individual disregards the warning of "punishment to come," he is "sent up," and he finds that in everything save personal liberty, he is better off than ever before; if his desire for and habit of idleness are gratified, almost to satiety; if his surroundings are such as to lift him above all unsatisfied desires; if in short he enjoys himself, he will be very likely to come back again.

If, however, law could be self-executing just as natural law is self-executing, and as moral law is self-executing, where the soul that sins dies, it would have a much greater effect upon the individual and would reduce crime. Just so long as laws are not self-executing; just so long as there are hundreds of crimes committed without arrests; just so long as there are 8,800 homicides and one and one-tenth per cent. of the slayers are brought to execution, the law will not deter very pronouncedly one who may be subject to criminal impulse.

We have heard some people say that the law is not to punish crime, but to reform the criminal. We have heard others say that crime has no moral character, that it is a disease. Just so long as we foster these notions in criminals, the results will be disastrous. There was a little fellow in Camden who was guilty of a most heinous offense, and when he was talked to he said, "Well, you know, I never was very strong, I never went further than the second grade; I do not know—that must be the reason why I did this thing." Where did a child of thirteen get such a notion? Is it far to seek when the newspapers are so often filled with advanced thinker's expositions of the innocence of criminals and the general applause given to such doctrines by the large part of those publicly identified with social work? So long as the public neglects and minimizes the moral quality of acts, as shown by an illustration in one of our papers, one that we all swear by in Philadelphia, crime will not grow less.

It was a picture of a street car surrounded by a crowd, with several well-grown boys and young men in the foreground, and under it this line, "The usual way the riot begins, some thoughtless boy throws a stone and starts a riot." Is it any wonder that the boy and the man do not think it a very serious thing to violate the law, when it is minimized in that fashion? I am not criticising that paper, for I am sure there are many people in this audience who have talked more foolishly than that. The fact is, if we are to reduce crime, we must bring every influence to bear that will prevent crime, and not make it less serious by sugar-coating its consequences after belittling its viciousness. But all of this is not to say every thing possible should not be done to set right our erring brothers.